



**Delaware Thoroughbred Racing Commission
Minutes of Public Hearing and Regular Meeting Held On
October 10, 2012**

The Delaware Thoroughbred Racing Commission held a Public Hearing and Regular Meeting on Wednesday, October 10, 2012, at 9:15 a.m., in the Veranda Room, White Clay Creek Country Club, located on the grounds of Delaware Park, 777 Delaware Park Boulevard, Wilmington, Delaware 19804.

The following Commission members were present:

W. Duncan Patterson, Jr., Chairman
Edward J. Stegemeier, Secretary/Commissioner
Bernard J. Daney, Commissioner
Henry James Decker, Commissioner

The following Commission members were excused:

Debbie Killeen, Commissioner

The following individuals also were present:

Andrew Kerber, Esq., Deputy Attorney General, Commission Counsel
Barbara Gadbois, Esq., Deputy Attorney General, Stewards' Counsel
John F. Wayne, DTRC Executive Director
Steven Bertrando, DTHA Board Member
Terry Burke, Court Reporter, Wilcox & Fetzer
Fritz Burkhardt, DTRC, Associate State Steward
Dr. Grace Burns, D.V.M., Witness in the matter of Jamie Ness
Robert E. Colton, Delaware Jockey's Association, Director
Claudia DeMarco, Owner
Arleen Daney, Guest
Alan Foreman, Esq., Counsel to Mr. Vazquez
Jeff Ganc, Delaware Park, Assistant Director of Security
Bessie Gruwell, DTHA, Executive Director
G. Jack Houghton, Jr., DTRC, Chief State Steward
Madeline Locke, DTHA, President
John E. Mooney, Delaware Park, Executive Director of Racing
Nancy Myshko, Delaware Park, Senior Vice President of Human Resources
Wayne Nebel, Horseman
Jamie Ness, Trainer, Appellant
Shelley Perkins, DTRC, Paralegal I (recording minutes)
John T. Peters, D.V.M., DTRC, Chief Commission Veterinarian
Steuart Pittman, President, Retired Racehorse Training Project
Ramon L. Rodriguez, DTRC, Inspector
Andrew Singleton, Delaware Park Security, Shift Manager
Arthur F. Stauffer, Sr., Owner/Trainer
Joe Strug, Dalare Associates Inc., Laboratory Director
Francis J. Swift, Jr., DTRC, Inspector
Jane C. Teichner, V.M.D., DTRC, Associate Commission Veterinarian
Paul Trapani, Owner/Trainer, DTHA Board Member
Juan Vazquez, Trainer, Appellant
Michael Vild, Esq., Delaware Park, Sr. Vice President of Racing/General Counsel
Bill Waldron, Owner/Trainer
Dr. Carissa Wickens, University of Delaware, Assistant Professor
Jessie Weir, University of Delaware, Guest of Dr. Wickens

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1. **WELCOME AND CALL TO ORDER**

At 9:08 a.m., Chairman Patterson called the meeting to order and welcomed those in attendance.

An audio recorder is in use by the Commission and a digital recording of the meeting is underway.

Chairman Patterson advised those in attendance that the meeting may be lengthy because of the four scheduled appeals. Because today is a live race day, Dr. Peters' report will be heard immediately following the approval of minutes. Dr. Wickens will address the Commission after Dr. Peters.

2. **APPROVAL OF MINUTES**

Chairman Patterson called for any changes, corrections and/or additions to the minutes. Hearing none, Chairman Patterson called for a motion to approve the minutes.

Upon a motion duly made (Daney) and seconded (Stegemeier) minutes of September 12, 2012 were approved as submitted.

3. **REPORT FROM CHIEF COMMISSION VETERINARIAN**

A. **Veterinary Statistical Health Report**

September 2012, Dr. Peters reported 3 deaths: 1 horse on the main track broke its knee; 1 on the turf course broke its knee and was sent to New Bolton Center for a necropsy; and; 1 death during training due to aortic aneurism. During October 2012 thus far, Dr. Peters reported 1 horse sustained left leg fractures of its sesamoids.

4. **EQUINE WELFARE PRESENTATION AND FUNDING REQUEST**

Dr. Carissa Wickens, Assistant Professor at the University of Delaware and Mr. Steuart Pittman, President of the Retired Racehorse Training Project, addressed the Commission and requested a donation in support of the April 2013 Horse Expo. They suggested an amount of \$5,000.00 in matching funds.

Chairman Patterson thanked them for the information and reported the matter will be taken under consideration.

5. **2013 RACING SCHEDULE – REQUEST FOR 363 DAYS OF SIMULCASTING**

In a letter dated October 5, 2012, Mr. Michael Vild wrote on behalf of the Delaware Racing Association (DRA) requesting 363 days of simulcasting from January 1, 2013 to December 31, 2013. For the 2013 racing meet, Sportech Racing LLC will provide tote services. Horthy & Horthy will be the auditors, and the engineers and insurance reports will be provided as required. The DRA will make a further request for live racing dates in advance of next year's meet.

Upon a motion duly made (Decker) and seconded (Stegemeier) the DRA's request was approved.

6. PUBLIC HEARING – APPEALS TO COMMISSION FROM STEWARDS' RULINGS

A. Trainer, Mr. Jamie Ness, Appeal #ASR-44-2012

NATURE OF THE PROCEEDINGS

This appeal is before the Delaware Thoroughbred Racing Commission (the "DTRC") pursuant to the provisions of DTRC Rule 19. A report from Dalare Associates, Inc., the official chemists of the DTRC, showed that the blood sample D-08046, taken from the horse "Sorry No Refunds", who finished first in the sixth race on Wednesday, July 11, 2012, tested positive for "Phenylbutazone" in the amount of 13.8 micrograms per milliliter of plasma. The trainer of this horse, Mr. Jamie Ness, waived his right to confirmatory testing of a split sample. As a result of the positive test, Mr. Ness was noticed for a Stewards Hearing. Having appeared for a Stewards Hearing on Tuesday, July 31, 2012, Mr. Ness voluntarily waived his right to be represented by legal counsel. Based on evidence and testimony presented at the Stewards Hearing, Mr. Ness was found in Stewards' Ruling 44-2012 to be in violation of DTRC Rules 7.3.1, 7.3.6, 7.3.9, 10.8.1, 10.8.1.3, 15.1, 15.1.1.1, 15.1.1.2, 15.1.2.2, 15.1.2.6, 15.1.2.7, 15.1.3.1, 15.1.3.1.1, 15.1.3.1.2, 15.1.3.1.3, 15.1.3.1.4, 15.3.1.5, and 15.3.1. The Stewards fined Mr. Ness, for a first offense, \$500 and suspended him for 7 calendar days from Thursday, August 2, 2012 through and including Wednesday, August 8, 2012. The Stewards disqualified the horse "Sorry No Refunds" from all purse monies in the sixth race on July 11, 2012, and the purse was ordered redistributed. Mr. Ness filed a timely appeal to the DTRC of Stewards Ruling 44-2012. Mr. Ness voluntarily waived his right to be represented by legal counsel. The DTRC was represented by Deputy Attorney General Andrew G. Kerber and the Stewards were represented by Deputy Attorney General Barbara Gadbois. Mr. Ness acknowledged violation of the rules cited by the Stewards and argued only for a reduction in the 7-day suspension penalty.

DECISION

By a vote of 4-0, the DTRC affirmed Stewards' Ruling 44-2012 and the 7-day suspension. The appeal of Mr. Ness is denied.

REASONS FOR DECISION

Mr. Ness acknowledged violation of the rules cited by the Stewards and argued only for a reduction in the 7-day suspension penalty. The DTRC determined that based on the violation of DTRC rules the 7-day suspension imposed by the Stewards in Ruling 44-2012 was appropriate. The DTRC asked the Stewards to be flexible as to the specific dates that Mr. Ness will be scheduled to be under suspension.

ORDER

Having considered the evidence presented it is the decision of the DTRC that the Stewards' Ruling 44-2012 is upheld and the appeal of Mr. Ness is denied.

B. Trainer, Mr. Juan Vazquez, Appeal #ASR-31-2012, ASR-32-2012, and ASR-33-2012

B-1. ASR-31-2012

NATURE OF THE PROCEEDINGS

This appeal is before the Delaware Thoroughbred Racing Commission (the "DTRC") pursuant to the provisions of DTRC Rule 19. A report from Dalare Associates, Inc., the official chemists of the DTRC, showed that the blood sample D-06223, taken from the horse "Es La Mia (ARG)", who finished first in the third race on Saturday, May 12, 2012, tested positive for "Boldenone" in the amount of 340 picograms per milliliter of plasma. The trainer of this horse, Mr. Juan Vazquez, elected to have confirmatory testing of a split sample by the Veterinary Diagnostic Laboratory, Iowa State University ("ISU"). The split sample was confirmed by ISU to contain "Boldenone" in the amount of 427 picograms per milliliter of plasma. As a result of the positive tests, Mr. Vazquez was noticed for a Stewards Hearing. Having appeared for a Stewards Hearing on Tuesday, July 17, 2012; Mr. Vazquez voluntarily waived his right to be represented by legal counsel. Based on evidence and testimony presented at the Stewards Hearing, Mr. Vazquez was found in Stewards' Ruling 31-2012 to be in violation of DTRC Rules 7.3.1, 7.3.6, 7.3.9, 10.8.1, 10.8.1.3, 15.1, 15.1.1.1, 15.1.1.2, 15.1.2.2, 15.1.2.6, 15.1.2.7, 15.1.3.1, 15.1.3.1.1, 15.1.3.1.2, 15.1.3.1.3, 15.1.3.1.4, 15.3.1.5, 15.3.1, 15.17, 15.17.1, 15.17.1.1, and 15.17.1.1.2. The Stewards fined Mr. Vazquez, for a first offense, \$500 and suspended him for 7 calendar days from Friday, July 27, 2012 through and including Thursday, August 2, 2012. The Stewards disqualified the horse "Es La Mia (ARG)" from all purse monies in the third race on May 12, 2012, and the purse was ordered redistributed. Mr. Vazquez filed a timely appeal to the DTRC of Stewards Ruling 31-2012. Mr. Vazquez was represented by attorney Alan Foreman, admitted *pro hac vice* by the Delaware Supreme Court. The DTRC was represented by Deputy Attorney General Andrew G. Kerber and the Stewards were represented by Deputy Attorney General Barbara Gadbois. Mr. Vazquez acknowledged violation of the rules cited by the Stewards and argued only for a reduction in the 7-day suspension penalty.

DECISION

By a vote of 4-0, the DTRC affirmed Stewards' Ruling 31-2012 and the 7-day suspension. The appeal of Mr. Vazquez is denied. The 7-day suspension is to be served consecutively with the 7 day suspensions under Stewards' Ruling 32-2012 and Stewards' Ruling 33-2012 for a total period under suspension of 21 days.

REASONS FOR DECISION

Mr. Vazquez acknowledged violation of the rules cited by the Stewards and argued only for a reduction in the 7-day suspension penalty. The DTRC determined that based upon the violation of DTRC rules the 7-day suspension imposed by the Stewards in Ruling 31-2012 was appropriate. The 7-day suspension is to be served consecutively with the 7 day suspensions under Stewards' Ruling 32-2012 and Stewards' Ruling 33-2012 for a total period under suspension of 21 days.

ORDER

Having considered the evidence presented it is the decision of the DTRC that the Stewards' Ruling number 31-2012 is upheld and the appeal of Mr. Vazquez is denied.

B-2. ASR-32-2012

NATURE OF THE PROCEEDINGS

This appeal is before the Delaware Thoroughbred Racing Commission (the "DTRC") pursuant to the provisions of DTRC Rule 19. A report from Dalare Associates, Inc., the official chemists of the DTRC, showed that the blood sample D-08242, taken from the horse "Cat Wiesel", who finished first in the second race on Thursday, May 24, 2012, tested positive for "Boldenone" in the amount of 296 picograms per milliliter of plasma. The trainer of this horse, Mr. Juan Vazquez, elected to have confirmatory testing of a split sample by the Veterinary Diagnostic Laboratory, Iowa State University ("ISU"). The split sample was confirmed by ISU to contain "Boldenone" in the amount of 382 picograms per milliliter of plasma. As a result of the positive tests, Mr. Vazquez was noticed for a Stewards Hearing. Having appeared for a Stewards Hearing on Tuesday, July 17, 2012; Mr. Vazquez voluntarily waived his right to be represented by legal counsel. Based on evidence and testimony presented at the Stewards Hearing, Mr. Vazquez was found in Stewards' Ruling 32-2012 to be in violation of DTRC Rules 7.3.1, 7.3.6, 7.3.9, 10.8.1, 10.8.1.3, 15.1, 15.1.1.1, 15.1.1.2, 15.1.2.2, 15.1.2.6, 15.1.2.7, 15.1.3.1, 15.1.3.1.1, 15.1.3.1.2, 15.1.3.1.3, 15.1.3.1.4, 15.3.1.5, 15.3.1, 15.17, 15.17.1, 15.17.1.1, and 15.17.1.1.2. The Stewards fined Mr. Vazquez, for a second offense, \$1,000 and suspended him for 15 calendar days from Friday, August 3, 2012 through and including Friday, August 17, 2012. The Stewards disqualified the horse "Cat Wiesel" from all purse monies in the second race on May 24, 2012, and the purse was ordered redistributed. Mr. Vazquez filed a timely appeal to the DTRC of Stewards Ruling 32-2012. Mr. Vazquez was represented by attorney Alan Foreman, admitted *pro hac vice* by the Delaware Supreme Court. The DTRC was represented by Deputy Attorney General Andrew G. Kerber and the Stewards were represented by Deputy Attorney General Barbara Gadbois. Mr. Vazquez acknowledged violation of the rules cited by the Stewards and argued only for a reduction in the 15-day suspension penalty.

DECISION

The appeal of Mr. Vazquez is denied in part and upheld in part. By a vote of 4-0, the DTRC affirmed Stewards' Ruling 32-2012 in part by upholding the fine and loss of purse money. The DTRC found in favor of Mr. Vazquez' appeal for a reduction in the 15-day suspension penalty and reduced his suspension to 7 days to be served consecutively with the 7 day suspensions under Stewards' Ruling 31-2012 and Stewards' Ruling 33-2012 for a total period under suspension of 21 days.

REASONS FOR DECISION

Mr. Vazquez acknowledged violation of the rules cited by the Stewards and argued only for a reduction in the 15-day suspension penalty. The DTRC determined that due to the close proximity in time of the three positive tests for Boldenone in horses trained by Mr. Vazquez it was appropriate to treat each of the positive tests as a first offense subject to a 7 day suspension. The 7-day suspension is to be served consecutively with the 7 day suspensions under Stewards' Ruling 31-2012 and Stewards' Ruling 33-2012 for a total period under suspension of 21 days.

ORDER

Having considered the evidence presented it is the decision of the DTRC that the Stewards' Ruling number 32-2012 is upheld in part and the appeal of Mr. Vazquez is granted in part. The fine of \$1,000 and loss of purse money are upheld and the 15-day suspension penalty is reduced to a 7 day suspension to be served consecutively with the 7 day suspensions under Stewards' Ruling 31-2012 and Stewards' Ruling 33-2012 for a total period under suspension of 21 days.

B-3. ASR-33-2012

NATURE OF THE PROCEEDINGS

This appeal is before the Delaware Thoroughbred Racing Commission (the "DTRC") pursuant to the provisions of DTRC Rule 19. A report from Dalare Associates, Inc., the official chemists of the DTRC, showed that the blood sample D-07873, taken from the horse "My Friend Dr. Nick", who finished first in the third race on Thursday, May 24, 2012, tested positive for "Boldenone" in the amount of 132 picograms per milliliter of plasma. The trainer of this horse, Mr. Juan Vazquez, elected to have confirmatory testing of a split sample by the Veterinary Diagnostic Laboratory, Iowa State University ("ISU"). The split sample was confirmed by ISU to contain "Boldenone" in the amount of 211 picograms per milliliter of plasma. As a result of the positive tests, Mr. Vazquez was noticed for a Stewards Hearing. Having appeared for a Stewards Hearing on Tuesday, July 17, 2012; Mr. Vazquez voluntarily waived his right to be represented by legal counsel. Based on evidence and testimony presented at the Stewards Hearing, Mr. Vazquez was found in Stewards' Ruling 31-2012 to be in violation of DTRC Rules 7.3.1, 7.3.6, 7.3.9, 10.8.1, 10.8.1.3, 15.1, 15.1.1.1, 15.1.1.2, 15.1.2.2, 15.1.2.6, 15.1.2.7, 15.1.3.1, 15.1.3.1.1, 15.1.3.1.2, 15.1.3.1.3, 15.1.3.1.4, 15.3.1.5, 15.3.1, 15.17, 15.17.1, 15.17.1.1, and 15.17.1.1.2. The Stewards fined Mr. Vazquez, for a third offense, \$1,500 and suspended him for 30 calendar days from Saturday, August 18, 2012 through and including Sunday, September 16, 2012. The Stewards disqualified the horse "My Friend Dr. Nick" from all purse monies in the third race on May 24, 2012, and the purse was ordered redistributed. Mr. Vazquez filed a timely appeal to the DTRC of Stewards Ruling 33-2012. Mr. Vazquez was represented by attorney Alan Foreman, admitted *pro hac vice* by the Delaware Supreme Court. The DTRC was represented by Deputy Attorney General Andrew G. Kerber and the Stewards were represented by Deputy Attorney General Barbara Gadbois. Mr. Vazquez acknowledged violation of the rules cited by the Stewards and argued only for a reduction in the 30-day suspension penalty.

DECISION

The appeal of Mr. Vazquez is denied in part and upheld in part. By a vote of 4-0, the DTRC affirmed Stewards' Ruling 33-2012 in part by upholding the fine and loss of purse money. The DTRC found in favor of Mr. Vazquez' appeal for a reduction in the 30-day suspension penalty and reduced his suspension to 7 days to be served consecutively with the 7 day suspensions under Stewards' Ruling 31-2012 and Stewards' Ruling 32-2012 for a total period under suspension of 21 days.

REASONS FOR DECISION

Mr. Vazquez acknowledged violation of the rules cited by the Stewards and argued only for a reduction in the 30-day suspension penalty. The DTRC determined that due to the close proximity in time of the three positive tests for Boldenone in horses trained by Mr. Vazquez it was appropriate to treat each of the positive tests as a first offense subject to a 7 day suspension. The 7-day suspension is to be served consecutively with the 7-day suspensions under Stewards' Ruling 31-2012 and Stewards' Ruling 32-2012 for a total period under suspension of 21 days.

ORDER

Having considered the evidence presented it is the decision of the DTRC that the Stewards' Ruling number 33-2012 is upheld in part and the appeal of Mr. Vazquez is granted in part. The fine of \$1,500 and loss of purse money are upheld and the 30-day suspension penalty is reduced to a 7-day suspension to be served consecutively with the 7-day suspensions under Stewards' Ruling 31-2012 and Stewards' Ruling 32-2012 for a total period under suspension of 21 days.

7. **REPORT FROM EXECUTIVE DIRECTOR**

A. **Summary of Activities Report**

Executive Director Wayne submitted his written report to the Commission and read into the record the statistics for the period September 1 through September 30, 2012. Report details included the following:

	<u>September 2012</u>	<u>Year-to-Date</u>
Number of persons fingerprinted	3	82
Fingerprint fees collected	\$237.00	\$6,478.00
DTRC Licenses issued	258	4,259

B. **Signed Decision & Order on Victor Rodriguez**

Mr. Wayne submitted for Commission signature the Decision & Order for the September 2012 appeal of Apprentice Jockey, Mr. Victor Rodriguez.

8. **REPORT FROM DELAWARE THOROUGHBRED HORSEMEN'S ASSOCIATION**

A. **Delaware Certified Thoroughbred Program Report**

DTHA Executive Director, Ms. Bessie Gruwell reported through the end of September 2012: 284 horses started 777 times with 120 firsts, 112 seconds, and 123 third place finishes. The Delaware Certified bonus monthly balance is \$200,459.63.

9. **NEW BUSINESS**

A. **International Conference of Racing Analysts and Veterinarians (ICRAV)**

Report submitted by DTRC Veterinarian, Dr. Jane Teichner.

B. **Apprentice Jockey Process and Requirements**

The Board of Stewards presented the Commission with a written report on the apprentice jockey process and requirements. The Commission will review the material.

C. **Salix Workshop – New Bolton**

Secretary/Commissioner Stegemeier suggested that the Commission invite veterinarians from the New Bolton Center to a future Commission meeting to discuss the Salix issue. (Similar to the Commission's workshop held a few years ago on Shock Wave Therapy.)

10. **PUBLIC COMMENT**

A. **Robert Colton:** Expressed his appreciation of the Commission's concern and interest in developing a program to train apprentice jockeys. Mr. Colton reported to the Commission that he is actively seeking a bi-lingual dietician to consult with the Delaware Jockey's Health & Welfare Benefit Board (DJH&WBB).

B. **John E. Mooney:** Nothing further.

C. **Michael Vild:** Nothing further.

D. **Madeline Locke:** Asked that Mr. Kerber review DTRC Rule 5.2.5 and provide his interpretation at the October 2012 Commission meeting.

11. **EXECUTIVE SESSION**

At 11:46 a.m., upon a motion duly made (Decker) and seconded (Stegemeier) the Commission was entered into Executive Session to discuss personnel issues. Mr. Mooney and Mr. Vild were asked to stay. At 12:35 p.m., the Commission was returned to public session.

12. **ADJOURNMENT**

At 12:35 p.m., upon a motion duly made and seconded, Chairman Patterson adjourned the meeting. The Commission will meet next on Wednesday, November 7, 2012 at 10:15 a.m. immediately following the 9:15 a.m. Delaware Jockey's Health & Welfare Benefit Board meeting. Both meetings will be held in the New Castle Room, adjacent to the Terrace Restaurant located on the third floor of the Grandstand at Delaware Park, 777 Delaware Park Boulevard, Wilmington, Delaware 19804.